

1 Western Wireless, which offers cellular service in primarily
2 rural areas.

3 Consumer education is clearly a critical issue
4 that needs to be addressed as we move towards a more
5 competitive Universal Service market. Briefly, I'd like to
6 highlight some of Western Wireless's Universal Service
7 initiatives that are aimed at bringing the benefits of
8 competition to consumers located in rural and high cost
9 areas, and you can follow along with the handout that was
10 passed around earlier.

11 Western Wireless is already demonstrating its
12 unique capabilities of itself and other wireless carriers
13 serving approximately 50 customers in a very remote region
14 of Nevada, which is unserved by any other local exchange
15 service carrier. These customers are receiving local dial
16 tone service through a new wireless local loop technology at
17 a flat rate of \$10.00 per month. The difference between
18 this rate and Western Wireless's costs are recovered through
19 a state rural improvement fund.

20 To expand its own Universal Service offerings,
21 Western Wireless recently filed petitions in 13 states,
22 seeking designation as an eligible telecom carriers or ETC.
23 As an ETC, Western Wireless intends to provide competitive
24 local telephony service to consumers in rural and high cost
25 areas.

1 Western Wireless is also sponsoring a wireless
2 cost model and is working with federal and state regulators
3 to establish an affordable Universal Service system that is
4 both competitively and technologically neutral.

5 We also want to express our appreciation to the
6 Joint Board for appointing a representative of Western
7 Wireless to the Rural Task Force.

8 Turning to the issue of consumer education,
9 Western Wireless strongly believes that three principles
10 should guide the development of a consumer education
11 program.

12 First, we should empower the consumer to decide
13 which carrier best serves individual telecom needs and what
14 services are included in the Universal Service offering
15 provided, of course, that that service meets the basic
16 definition of Universal Service.

17 Second, we should educate consumers on the
18 benefits of competition.

19 And, lastly, we should eliminate any barriers to a
20 competitive Universal Service system that would harm the
21 public.

22 In adopting Universal Service policies, the Joint
23 Board should first ask whether the policy is in the
24 consumers' interest. By focusing policy initiatives on the
25 consumer, the public interest will thereby be served.

1 The first principle is empowering the consumer.
2 The consumer and not the regulators should be the decision-
3 maker in the competitive environment. The Joint Board
4 recommended and the FCC adopted a list of services that must
5 be provided by all ETCs.

6 Beyond these mandated services, the consumer
7 should be empowered to decide who provides the service, how
8 the service is provided, and what additional services are
9 offered. The consumer should decide, for example, whether
10 the service is mobile or fixed, whether unlimited local
11 usage is included in the offering, whether the service
12 should be for a large or a small local calling area, and
13 whether other services and features are included in the
14 offering.

15 In other words, the Joint Board and the FCC need
16 to work together to ensure that the Universal Service system
17 is competitively and technologically neutral.

18 To make sure consumers get the full range of
19 choices, regulators must take care to avoid inadvertently
20 creating pitfalls for new entrants, particularly wireless
21 carriers. For example, the definitions of which services
22 are supported should be broad enough in order to enable
23 consumers to make their own choices about the type of
24 Universal Service that they want and need. As long as all
25 carriers get the same amount of support per month, no

1 carrier would have any unfair advantage over others and
2 consumers' choices would not be distorted by skewed
3 regulations.

4 The second principle is educating consumers on the
5 benefits and pitfalls of competition. For many consumers,
6 the establishment of a competitive Universal Service system
7 will be the very first time that they've had a choice of
8 local service providers.

9 As a starting point for educating consumers on
10 Universal Service offerings, the Universal Service provider
11 is required to advertise the availability and rates of the
12 services offered as a condition of being designated as an
13 ETC.

14 In addition, the Joint Board may want to encourage
15 all ETCs to further education consumers about the
16 comparative benefits of different services or technologies.

17 For example, on CTIA's web site, it includes
18 information about how to choose a wireless service and how
19 to choose and use a wireless phone, as well as information
20 and tips on driving safety, wireless fraud and disabilities
21 access.

22 It will also be important for regulators to inform
23 consumers that they will benefit from the increased
24 competitive choices for local telecom service. Indeed,
25 regulators can cite to the positive experience of wireless

1 subscribers with new competitive entry. Many wireless
2 consumers have already experienced benefits of lower calling
3 rates, more minutes of use, and higher quality service.

4 The Joint Board and state commissions could
5 sponsor public fora to educate consumers about the new
6 competitive environment as well as new technology, such as
7 wireless, and highlighting the benefits to consumers.

8 Western Wireless recently testified at such a
9 public hearing hosted by the State of Nebraska, which
10 focused on consumer concerns about the size of local calling
11 areas.

12 The third principle is the elimination of barriers
13 to a competitive Universal Service system. The most
14 significant barrier to entry is the differing amounts of
15 support available to different classes of carriers. How can
16 a new entrant hope to compete if the incumbent -- against an
17 incumbent if the incumbent is getting hundreds of dollars
18 per line in subsidies while the new entrant can qualify only
19 for a small fraction of that amount?

20 Regulators must ensure that Universal Service
21 support is fully portable; that is, that competitive
22 carriers receive the same dollar amount of support as
23 incumbents for each line that they serve. This basic
24 principle should be applied for both implicit as well as
25 explicit subsidies.

1 For example, the FCC has stated that rural
2 telephone companies will continue to receive subsidies under
3 the historic system until the year 2001. Western would
4 prefer to see that the new forward-looking Universal Service
5 system implemented much sooner. But if that is not
6 possible, regulators could consider at least distributing
7 Universal Service support to new competitive entrants based
8 on a forward-looking cost model. This support would roughly
9 match the implicit subsidies that the rural telecoms are now
10 receiving, and this would ensure that all Americans,
11 including consumers in rural areas, have access to the same
12 array of competitive options as in urban areas.

13 More broadly, the FCC and the states must work
14 hard to eliminate all implicit subsidies, such as inflated
15 access charges and inequities in the phone companies' rate
16 structure as rapidly as possible. And in the meantime,
17 regulators should try to level the playing field by giving
18 new entrants access to some of the revenue flow and
19 corresponding explicit subsidies that the incumbents are now
20 receiving.

21 Even the explicit Universal Service support
22 mechanism need to be revised to ensure full portability of
23 subsidies. Western Wireless filed a petition two weeks ago
24 with the FCC expressing concerns about the FCC's current
25 Universal Service distribution rules which impose a delay of

1 as long as two years on a new entrant's ability to receive
2 explicit report and distribute funding to new entrants based
3 on data and line counts that may be as long as two years
4 old.

5 Similarly, some state commissions are not
6 providing the right among of explicit intrastate Universal
7 Service Funds to incumbents and new entrants.
8 Unfortunately, the Kansas Commission did just that. While
9 we have asked the FCC to preempt this aspect of the Kansas
10 Universal Service system and policy, we're also working
11 directly with Kansas and other state commissions to remedy
12 these problems.

13 In closing, I'd like to quote from a recent speech
14 by Chairman Kennard before an International Telecom
15 Regulator Group at the ITU plenipot where he stated that,
16 "Universal Service rules also should not unfairly advantage
17 or disadvantage one technology over another. Wired
18 telecommunication services may make sense in some places,
19 while wireless may make sense in others. Our objective
20 should be to create an environment where such distinctions
21 are of no great consequence to the consumers."

22 Thank you very much.

23 CHAIRMAN KENNARD: Thank you very much, Michele.
24 Commissioner Gillis.

25 COMMISSIONER. GILLIS: Thank you, Mr. Chairman.

1 I am Bill Gillis, from -- commissioner from the
2 State of Washington. I am a member of the NARUC
3 Communications Committee. I am vice-chair of the NARUC Ad
4 Hoc Consumer Affairs Committee and I chair the Rural Task
5 Force.

6 In thinking about our working title for my
7 remarks, I thought about a couple of things. One of them I
8 was thinking of a title of, gee, it's really lonely being a
9 regulator, or why don't my friends call me anymore.

10 (Laughter.)

11 Back in the good-old days of competitive reforms,
12 we could always count on consumers being in our hearing room
13 and supporting us when we're working on competitive reforms,
14 but that support has dwindled considerably in recent times.

15 In my own state, for example, we had a hearing on
16 the final rule for our state access reform rule, and nobody,
17 not one person stood up and said we were doing the right
18 thing, and that's not too easy.

19 Where have the consumers gone? And it's something
20 that we do, it's pro-competitive, it's something that we're
21 doing for consumers.

22 Well, what we hear in hearings and really talking
23 to people one on one, what we're hearing is that the
24 consumer is saying that we see the cost but we don't see the
25 benefits. Is competition ever going to come to the

1 residential and small business customers? We don't think
2 so.

3 You know, where they are seeing competition,
4 primarily in the long distance realm, they are saying it's a
5 hassle, we don't like marketing phone calls in the evening,
6 we're getting charged for services we didn't subscribe to,
7 and so forth, and we're not so sure about this competition
8 thing.

9 And it's that backdrop that makes it hard to
10 explain Universal Service to consumers, and we try to
11 explain to them, well, we need to take these implicit
12 subsidies and make them explicit, so we aren't forced to
13 make a choice between competition and Universal Service. We
14 shouldn't be forced to make that choice.

15 But they say, well, we don't want this competition
16 thing anyway. We're not so sure about that, and besides
17 isn't that a new tax of some sort people are talking about,
18 and what's in it for me anyway?

19 And the bottom line I get from that as a state
20 regulator is we aren't doing a very good job of consumer
21 education. We need to make our competitive policy more
22 consumer friendly. We need to find out a way to explain it
23 to people.

24 Chairman Woods in his opening comment summarized
25 in one sentence what I struggled to -- struggled around to

1 say, is that we need to tell the consumers the truth. It's
2 our burden to explain to them what we're doing and why we're
3 doing it, and we need to be accountable.

4 So where do we start? Well, one area we start is
5 recognizing consumer expectations. From the standpoint of
6 your work, the FCC and the Joint Board, I think the most
7 important expectations I hear from my consumers is that they
8 should not be made worse off as a result of competition.
9 That's the bottom line from their perspective.

10 And to me, that is the fundamental goal of
11 Universal Service, is making sure that to the best of our
12 possible ability to be able to look them in the eye and
13 saying we are doing everything we can to make sure that no
14 citizen, no business in this nation is going to be worse off
15 as a result of competition. Hopefully, a lot of people are
16 going to be made better off.

17 And, you know, we need to really resist people who
18 characterize Universal Service as a new social program,
19 social welfare program of some sort. It's not. The bottom
20 line of Universal Service is it's our mechanism to make sure
21 that the benefits of competition are distributed nationwide
22 to everybody and not just to those that happened to be lucky
23 enough early in the competitive reforms to be able to have a
24 choice. It distributes benefits evenly across the country
25 and we owe that to the customers.

1 Preparing consumers for change, state utility
2 commissioners and NARUC have been very active in recognizing
3 that we need to -- we need to do better jobs at consumer
4 outreach, education and protection. I enclosed with my pre-
5 filed remarks a copy of the White Paper that was drafted by
6 the Ad Hoc Committee on Consumer Affairs and the
7 Communications Committee jointly, and some various
8 principals that were in that, and I'm not going to go into
9 those now.

10 The one principle that I did want to mention
11 though comes from another NARUC resolution which did
12 indicate that the content of bill should be accurate, if
13 nothing else. Chairman Woods commented about telling the
14 truth. And what we've done in our state goes beyond the
15 NARUC resolution. I don't mean this to be NARUC's position,
16 but we've taken that a bit farther, and we decided that that
17 mean in the context of Universal Service full disclosure.

18 In our draft Universal Service rule, what we've
19 done is for companies that would receive Universal Service
20 Funds they would have two choices. One, no disclosure,
21 including no disclosure of percent of customer payment
22 contributed to it by the carrier, or full disclosure. And
23 full disclosure means the amount of monthly support the
24 carrier receives from the fund, the amount of carrier
25 contribution, the amount of support per line received by the

1 carrier, and the customer's exchange, and a recurring
2 statement of the carrier's toll and per line reduction
3 ordered under a different section of our rule. In other
4 words, tell them everything. Don't mess around with it.
5 And that's our suggestion, and I am speaking for myself, not
6 NARUC in this regard, I would recommend that to you at the
7 federal level is that that's something to think about, is
8 just require full disclosure.

9 Final topic is I was asked to comment on the
10 potential role of NARUC as a clearinghouse of information on
11 consumer issues to help you at the FCC in getting a better
12 understanding of consumer needs. And I think that's a great
13 idea. It's very consistent with what we're trying to do
14 anyway.

15 The Ad Hoc Committee on Consumer Affairs, which I
16 am vice-chair of, was established by NARUC for the purpose
17 of helping us, the states, understand and share among
18 ourselves what are the different options for reaching out to
19 consumers for consumer protection, consumer education. And
20 we're developing a sharing arrangements to get a better
21 understanding of what consumers want in individual states.

22 The ad hoc committee just completed its two years
23 work plan, and one element of that plan is to do a better
24 job of communicating between states and federal agencies on
25 consumer issues, so that's just right on target.

1 And so my recommendation is, and actually I'm
2 looking at Commissioner Schoenfelder because she chairs the
3 policy subgroup on consumer issues for the Communications
4 Committee, but I think we ought to just do it. We'll just
5 figure out a way to make it work. If our colleagues at the
6 FCC want that relationship, it's something that I think we
7 can easily accommodate.

8 So to summarize, the bottom line for me is I'm a
9 believer in the '96 Act. I think that it's a well written
10 document. It's something that promises good things for
11 America, and I want to see both competition and Universal
12 Service. I don't want to make a choice between Universal
13 Service and competition. I want them both. I think we can
14 do that, but we're not going to get there if we don't have
15 the support of consumers. At least in my state, we've lost
16 it, and I think that's true nationally, is that consumers
17 for a variety of reasons are doubting whether competitive
18 forms make any sense for them, particularly residential and
19 small business consumers. We need to step back.

20 We need to make sure that our competitive policies
21 are consumer friendly. We need to be able to explain them
22 to consumers in a very truthful fashion, and I would also
23 comment that we need to have a Universal Service Fund that
24 is sufficient in size and administered in a way that we can
25 truly look consumers in the eye and say that we haven't made

1 you worse off. At least we've done our best to make sure
2 every citizen of business in this nation is at least as well
3 off after these reforms than they were before they happened.

4 Thank yo for this opportunity to comment. I look
5 forward to answering questions later.

6 CHAIRMAN KENNARD: Thank you.

7 Mr. Lubin.

8 MR. LUBIN: My name is Joel Lubin. I work for
9 AT&T. I have the good fortune of working on these
10 interesting and complex issues.

11 Thank you for giving me the opportunity to speak
12 before you today regarding issues of educating the consumer
13 in the telecommunications marketplace. AT&T supports the
14 Commission's objective of eliminating customer confusion and
15 better educating consumers about telecommunications issues,
16 in particular, Universal Service.

17 Let me also say that in a competitive long
18 distance market, AT&T has every incentive to ensure that its
19 customers fully understand its offers and charges associated
20 with these offers. If our customers are confused, they have
21 choice. We are in the business to win customers and keep
22 them satisfied, not to have them leave because they are
23 confused.

24 For this reason, we provide educational
25 information when new charges are introduced or if charges

1 change through bill messages or bill inserts.

2 In the case of the charges that we have imposed to
3 recover our Universal Service expenses, we work closely with
4 regulators and other stakeholders to ensure that our
5 messages to our customers were clear and complete. Our
6 bills include an 800 number for customers to call if they
7 have questions about their bill.

8 And here again, it's in our interest to ensure
9 that our bills are clear and understandable, both because
10 it's what our customers want and deserve, and because it
11 minimizes our costs by reducing the number of calls to our
12 customer care 800 number. We believe that we have taken
13 extraordinary steps to achieve this goal given the existing
14 circumstances surrounding Universal Service.

15 However, some of the customer confusion over USF
16 implementation is caused by carriers doing different things.
17 This can be significantly mitigated if all carriers assess
18 end users for this expense in a similar manner. And it is
19 inevitable that all carriers in a competitive marketplace
20 will recover this expense from their customers because it is
21 an external cost that is beyond our control and cannot
22 merely be competed away.

23 Under the existing rule, carriers are assessed USF
24 based on the previous year's revenues and have complete
25 discretion over the manner in which they recover the

1 assessment as part of their current year's cost.

2 Unfortunately, this means that some carriers who
3 have less revenue in '98 relative to '97 will have a
4 collection rate that is literally higher than the assessment
5 rate.

6 Some seek to recover their assessments through
7 fixed monthly charges while others recover it through a
8 percentage assessment. Some seek to recover their
9 assessments from interstate services only, while others
10 recover it from all services. The FCC has allowed the ILECs
11 to recover their obligation from the inter-exchange
12 carrier's access charges, known as ILEC flow-back. That's
13 what you heard Frank Gumper talk about in the previous
14 panel. That's raising the cost of providing LD service.
15 Some IXCs recover their ILEC flow-back portion from their
16 nationwide average toll rates, while others include it in
17 their end user USF recovery charges, thus raising the USF
18 line item on the bill.

19 AT&T has decided to charge 93 cents per month to
20 each of its residential accounts and a 4.1 percent surcharge
21 to its business customers, interstate revenues. Given that
22 each carrier has its own set of uncollectibles that it must
23 account for, it is not surprising that each would charge
24 their customer a different rate under the Universal Service
25 banner. This has resulted in needless customer confusion.

1 Competitive neutrality is enabled when all
2 carriers are required to use the same assessment and
3 collection rate applicable to all end user revenues. With
4 simultaneous assessment and recover of the carriers'
5 Universal Service obligation and no discretion on the part
6 of the carrier as to how the recovery will be made as
7 between different classes of customers, the end user
8 surcharge approach removes the potential kind of
9 gamesmanship over USF recovery that inevitably fosters
10 customer confusion, dissatisfaction with the entire system.

11 Such an approach applied fairly and uniformly to
12 all customers will ultimately lead to customer acceptance,
13 if not approval, and serve to strengthen our universal
14 support mechanism.

15 An alternative revenue base surcharge, the
16 Commission could require both assessment and recovery from
17 an interstate service providers by an end user per line
18 charge. That is to say the carrier owes what it collects
19 from the subscriber based on the new assessment rate that
20 the carrier does not set but USF sets under the direction of
21 the regulator.

22 Here in this example, the denominator of the
23 factor would be calculated by the administrator based on
24 total lines, including primary line, non-primary, wireless
25 lines, business lines, paging lines. A per line charge has

1 the additional benefit of solving the internet assessment
2 controversy with a per line charge to the customer line
3 itself is assessed for the Universal Service, not the
4 services provided over the line.

5 The Commission can also decide to enforce public
6 policy objectives by varying the per line factor by customer
7 type. For example, it could decide among a number of
8 options to cap the customer per line assessment at a dollar,
9 cap paging at a quarter, exempt Lifeline customers from any
10 assessment at all, and have the business per line charge
11 make up the difference.

12 Through the common USF factor, all carriers would
13 be charging the respective customers uniformly. Thus, all
14 customers within the same segment would be charged the same
15 amount regardless of their service provider.

16 Whether the Commission implements a revenue or a
17 per line surcharge, the anti-competitive ILEC flow-back
18 issue would be eliminated. All carriers, including the
19 ILECs, will be assessing and collecting their obligations
20 simultaneously from their retail customers. This also
21 eliminates the possibility of carriers gaming the process.
22 From the customer's perspective, the USF charge would be
23 clear, unambiguous and consistently labeled, eliminating
24 significant amount of confusion on the topic.

25 Thank you for your time. I look forward to

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1 answering your questions. Thank you.

2 CHAIRMAN KENNARD: Thank you.

3 Mr. Gilles.

4 MR. GILLES: My name is Dave Gilles. I'm an
5 assistant attorney general in the Wisconsin Department of
6 Justice. I have worked in the Office of Consumer Protection
7 in Wisconsin, Department of Justice, for long enough to
8 remember when consumer -- the very infrequent consumer
9 complaints about telephone services were routinely and
10 quickly resolved by an industry that was subject to very
11 comprehensive regulation on the federal and state level.

12 That is not the case today. During the last four
13 years, I've had the occasion to handle six cases against
14 companies that were engaged in slamming or cramming
15 practices, and the resources devoted by our office and my
16 counterparts in other states have increased dramatically
17 over time.

18 Today, I would like to address two issues. I
19 would like to outline consumer education efforts that have
20 been undertaken in Wisconsin to try and improve consumer
21 understanding in this industry.

22 And secondly, I would like to provide you with
23 some observation that I have as a person involved in
24 enforcement and enforcing deceptive practice issues about
25 what it is about this industry that creates the climate for

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1 this fraud.

2 Turning to the first point, Wisconsin has
3 undertaken two approaches to deal with consumer education
4 concerning telecommunication services. The Wisconsin
5 attorney general, in 1996, petitioned the Wisconsin Public
6 Service Commission to undertake steps to promote consumer
7 education issues and other consumer safeguards. And as a
8 result of that, last March the Public Service Commission,
9 which had worked closely with other state agencies,
10 announced a four-part consumer education program that
11 consisted of primarily the development of a buyer's guide to
12 telecommunication services, as well as specific information
13 pieces dealing with particular issues.

14 Now, this printed materials -- the printed
15 materials were coupled with television and radio public
16 service announcements which announced their availability.
17 In addition, distribution was coordinated through libraries
18 and community groups, and, finally, there was online access
19 to it through the web site for the Public Service
20 Commission.

21 As best we can determine, it's been successful,
22 although the distribution has been limited. The reports are
23 being revised because at the time they were prepared
24 "cramming" hadn't become a term of art in this business.

25 The second aspect of consumer protection education

1 that's been undertaken in Wisconsin, in contrast to this
2 generic approach, has been a pilot program that the
3 Commission approved for Ameritech to undertake with regard
4 to consumers who were having difficulty in paying bills. It
5 was a program that's become known as "Telcap," and was
6 focused on persons who appeared not to have the resources to
7 pay for basic local phone service.

8 Specific Ameritech personnel were trained in
9 providing information about Lifeline and other resources
10 that would be available to people in the situation, and
11 according to the reports, this has been effective in
12 lowering the number of disconnections that are occurring in
13 the pilot program.

14 I'd be happy to provide more information regarding
15 either of those programs to you.

16 Turning to the second point, I would very much
17 like say that as a result of the consumer education efforts,
18 I don't have as much to do, but that's no the case. We have
19 begun three actions this year, and these are very time
20 consuming and we continue to get lots of complaints.

21 There are three things that, I think, give rise to
22 this, at least, and the first is in the deregulated industry
23 telecommunication services with lower barrier to entry, it
24 provides a very attractive place for people who are not
25 interested in delivering what consumers think they are

1 buying. The opportunity to use the telephone system to
2 collect for fraudulent practices is one that has not missed
3 people who used to have to go door to door to sell their
4 subscriptions.

5 Let me tell you a couple situations that I have
6 encountered. In 1995, we brought an action against a
7 company that was using a prize promotion to sell
8 subscription service to calling card customers. This is
9 before the term "cramming" had been coined. As a result of
10 setting these boxes out at our state fairs, this company
11 enrolled 4,000 people in Wisconsin that failed to check off
12 after the fine print that by entering the contest they also
13 agreed to a \$5.00 monthly calling card subscription. So
14 this was in addition to their dial 1 plus.

15 So a few people complained to us and after we
16 filed an action against the company, and determined that
17 after the promotion had run 4,000 people were signed up.
18 About 10 months later 2,000 people continued to pay \$5.00 a
19 month without ever making a long distance call with the
20 calling card.

21 Now, the company assured us that they had sent a
22 welcome package that contained the plastic card with the
23 number, but we all -- at least my belief is that most of
24 those are regarded as solicitations and get accorded the
25 same treatment that your invitations to subscribe for

1 another credit card get.

2 And so what we had was, after eight months you had
3 2,000 people continuing to pay this \$5.00 a month charge.

4 Now, in the settlement discussions with the
5 company, I sat across the table from the president, and I
6 said, "Well, your primary business is selling long distance
7 service, right?" He agreed.

8 I said, "That means that when someone isn't using
9 your card to make calls, you aren't making money. You
10 aren't doing your business." He said, "That's true."

11 I said, "What do you do to let people know about
12 your service?"

13 "Well, we contact them once a month.

14 "How do you do that?

15 "On the bill it says services \$5.00."

16 That was how he contacted their people.

17 Two other points in terms of the marketplace.

18 Information about what services are has to be clear,
19 accurate and not misleading. The notion of unbundling
20 services and creating the impression that somehow these
21 unbundled components are being used to pay a specific tax,
22 are being used for some purpose that's not clear from the
23 description of it, gives rise to concern from someone who
24 has been involved in prosecuting deceptive advertising
25 cases. It creates -- it creates a concern if the money

1 that's collected is not obligated to go to the source that's
2 designated and referenced.

3 For example, in one case involving a cruise line
4 that was unbundling service, all cruise lines had to pay
5 some sort of tax based on usage. What this cruise line did
6 that we prosecuted it unbundled the tax that it had to pay
7 and told people after they signed up for the cruise, besides
8 that, you have to pay a \$40.00 tax," and people paid it
9 thinking this was part of the price of admission, like sales
10 tax. In fact, it wasn't.

11 Now, in conclusion, I think that what has to be
12 done is we have to continue with consumer education efforts.
13 Secondly, that the Commission, as well as other enforcement
14 agencies, have to take action to apply established consumer
15 protection principles to bring incentives in the marketplace
16 that would discourage fraud, and to implement those
17 principles in this new competitive market.

18 Finally, I would like to acknowledge and
19 appreciate your efforts in pursuing these matters, and thank
20 you for the opportunity to share these views today.

21 CHAIRMAN KENNARD: Thank you very much, Mr.
22 Gilles.

23 Dorothy Attwood.

24 MS. ATTWOOD: Thank you. I'm Dorothy Attwood. I
25 am Chief of the Enforcement Division in the Common Carrier

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1 Bureau. I've seen half of you regularly, but I'm very
2 pleased today to participate in this panel, and even more
3 pleased that this focus on consumer education and protection
4 by the Joint Board will help foster the key cooperative
5 effort on this issue.

6 As the Commission and this Board has recognized,
7 consumer protection, education and enforcement have played
8 an increasingly important role as we move into a deregulated
9 environment.

10 Moreover, like other issues for which we may share
11 different visions, on this issue of consumer protection and
12 education and enforcements, the interests of the states and
13 the FCC are aligned. In fact, our interests are not just
14 shared, but borrowing from the popular jargon of today, I
15 think we could say that we're co-dependent on each other,
16 because for every consumer call, letter, e-mail or complaint
17 that the state receives, the odds are the Commission
18 received them as well.

19 Moreover, the odds are that you probably in the
20 state hear about when the Commission treats consumers well
21 or perhaps not so well, and we certain hear about your job
22 performance as well. This all means that our collective
23 performance to consumers as government entities is
24 intricately linked.

25 Now, the good side of our co-dependence is that

1 for many issues, for every consumer whose concern, confusion
2 or complaint we resolve, we both benefit, and importantly
3 because we share the consumer, the consumer also benefits
4 for each of our actions.

5 Similarly, when either state or the FCC brings
6 successful enforcement action against a carrier that is
7 shirking the law, we all benefit from the message that it
8 sends to the industry generally. And again, most
9 importantly, our shared consumer benefits as we collectively
10 ferret out those carriers that can play by the rules and
11 those carriers that cannot.

12 At its core, our co-dependence means that a
13 victory for one is a victory for all. It also means that
14 through cultivating our shared goal of consumer protection,
15 we can make even greater gains in ensuring that the
16 marketplace is full of informed consumer choice and not
17 confusing, misleading or fraudulent carrier conduct.

18 Some of the specific ways we can build this
19 cooperative effort, in our view, is through actively seeking
20 to avoid jurisdictional divide. We need to work together so
21 carriers can't exploit the boundaries and work to create a
22 seamless consumer protection network.

23 For example, the Common Carrier Bureau recently
24 provided the State of Wisconsin, which -- Mr. Gilles, in
25 fact, with an informal staff opinion regarding the

1 preemptive effect of the federal anti-slamming provision in
2 Section 258 of the Act in relation to certain state laws,
3 Wisconsin state laws prohibiting unfair and deceptive
4 practices.

5 Wisconsin had come to us for this letter in
6 connection with a suit brought by a carrier under state law,
7 and the carrier had claimed that the state had no authority
8 to proceed against it because federal law preempted.

9 In this letter, and it's in your materials, we
10 concluded that the Wisconsin statutes at issue didn't
11 obstruct the Commission's objective at all, but rather,
12 although utilizing different means to do so, both the
13 Commission and the state laws served to protect -- prevent
14 slamming and were not incompatible.

15 We issued a similar letter to the State of
16 California and also to Vermont earlier in years past, and
17 have been told by both those states that they have been
18 extremely effective in litigation, in working toward not
19 creating a divide on jurisdictional grounds.

20 The bottom line here is that when it comes to
21 consumer protection, the more cops on the beat the better.
22 Moreover, through utilizing all of the consistent state and
23 federal laws and resources, we maximize our potential to
24 shut down or at least rein in disreputable businesses.

25 As we all know, Al Capone ultimately went to

1 prison for tax evasion. So at least in this one instance I
2 think we all agreed that the Tax Code served the public's
3 interest.

4 Another way we can work together is through
5 improving our coordination of federal and state enforcement
6 actions against common problem carriers. Specifically,
7 we're actively working here at the FCC to enhance our data
8 collection and mining of information that we receive from
9 consumers by way of written complaints, e-mails and calls.
10 The sooner we can understand and analyze what consumers are
11 telling us, the sooner we can act on emerging problems.

12 While we improve this ability at the FCC, we need
13 also to work on making sure this information is available as
14 a shared resource for the states. We each see a piece of
15 the problem, but together the telescope range geometrically
16 increases.

17 Moreover, such coordination helps to leverage all
18 of our limited resources, to get the most bang for the
19 public's buck.

20 Indeed, Commission Johnson visited our shop
21 yesterday with her consumer protection folks, and gave us
22 some very useful information about what Florida is doing,
23 and it was very gratifying to see a publication that Florida
24 apparently issues, I guess on a monthly basis, called
25 "Consumer Activity Report." If you look on it, there is a

1 listing of the apparent slamming infractions. And we looked
2 at that and we saw that of the top four who have --
3 consumers have complained against these certain carriers, of
4 those top four, three of them the Commission today at least
5 has taken action against.

6 Several months ago we took action against Al
7 American Telephone, which is on the top of your list.
8 Today, the Commission adopted two over a million dollar
9 notice of apparent liability against two other carriers on
10 your list.

11 And so when we help enforcement actions against
12 companies, it's gratifying to see that the Florida consumers
13 are also clearly directly impacted.

14 Another way we can improve our coordination about
15 emerging problems is to seek a coordinated -- is seek to
16 coordinate joint consumer alerts about fraudulent schemes
17 that help -- and therefore we can help each other spread the
18 word, and help consumers that way.

19 Finally, we need to think proactively about not
20 just how to manage the complaints that we all receive and
21 pool our equally scarce resources, but how to ultimately
22 reduce these complaints. Swift and strong enforcement
23 action are a part, but giving consumers appropriate tools to
24 protect themselves is absolutely vital. And on this basis
25 the Commission recently adopted a truth in billing notice of

1 proposed rule-making. We sought comment on ways that
2 information could be provided to consumers about the
3 services being billed by carriers.

4 Last Friday, the Bureau held a forum where state
5 representatives were participant, and to discuss some of the
6 recommendations raised in that NPRM, and through this effort
7 of working toward clarifying consumer information and
8 understanding of their charges, we work to minimize consumer
9 confusion and carrier fraud, and ultimately we arm consumers
10 with the best weapons that they can have in the new
11 marketplace and that is clear information.

12 We look forward to working with the states closely
13 on this effort, and I just remind you that comments are due
14 November 10th, and we look forward to getting them in.

15 Other proactive measures should include web link-
16 ups so that other relevant federal and state agencies and
17 enforcement bodies can be reached by consumers in a single
18 try.

19 Finally, I look forward to learning from states
20 about the techniques that have proved effective in providing
21 consumers real measures of protection and education, and I
22 welcome this dialogue today and in the future.

23 CHAIRMAN KENNARD: Thank you, Dorothy. Good job.

24 We're now in the question and answer period of our
25 panel, and rather than go seriatim, as I mentioned earlier,

1 I'll first invite the commissioners here to explore with the
2 panelists any particular issues that were raised or any
3 other issues that might be on your mind.

4 I did want to echo one thing that Dorothy Attwood
5 said about our truth in billing notice. That notice was
6 inspired, in part, by the very excellent paper that NARUC
7 put out on consumer education, and I think that that effort
8 itself is a good example of state governments and state
9 commissioners working together with the federal government
10 and federal commissioners to solve a very difficult problem
11 for consumers.

12 So I also would like to invite you all to focus on
13 that proceeding and to file your comments or to give us your
14 views in any way possible.

15 With that, do we have any questions from the
16 bench?

17 Chairman Johnson?

18 CHAIRMAN JOHNSON: Yes, I have a question for Mr.
19 Lubin.

20 Making sure that I understand your analysis
21 because I got your pre-filed a little late, but you're
22 suggesting that we as regulators would require or mandate
23 that there be an end user line item charge on the bill; that
24 that somehow would help with the flow-through issue?

25 I didn't follow your argument or your position, so

1 could you please explain?

2 MR. LUBIN: Yes, Ms. Chairman.

3 What we are describing is that whatever the
4 assessment mechanism is that is finally implemented from
5 USAC and if it's a percentage of revenue, if it's a line,
6 whatever it turns out to be, and let me for the moment,
7 let's just pick a revenue assessment, and it turn out to be
8 3.25 percent, then all carriers would put on their bill 3.25
9 percent. They wouldn't raise it. They wouldn't lower it.
10 They would put 3.25 percent.

11 And by virtue of all carriers who have an
12 assessment paying in to the Fund, meaning collecting the
13 money from the retail user, by doing that the local company,
14 if they have an assessment and it turned out to be 3.1
15 percent or whatever it turned out, they would collect it the
16 same way, pay it to the administrator, and thus eliminate
17 the problem that Frank Gumper talked about on the previous
18 panel.

19 So when I said it would eliminate the flow-back,
20 of which there is approximately \$800 million today, that the
21 LECs pay that's buried in access fees, by literally having
22 an assessment and collection to be the same for all carriers
23 who are being assessed the value, yes, it would eliminate
24 the flow-back.

25 CHAIRMAN JOHNSON: What if a company didn't want

1 to assess --

2 MR. LUBIN: Ah, excellent question.

3 CHAIRMAN JOHNSON: -- or collect? Or collect
4 really.

5 MR. LUBIN: Right.

6 CHAIRMAN JOHNSON: If they didn't want to collect
7 it from their customers --

8 MR. LUBIN: Right.

9 CHAIRMAN JOHNSON: -- there would be a
10 governmental mandate that they have to collect this money
11 even though they don't want to?

12 MR. LUBIN: A couple of thoughts, and maybe there
13 are other ways -- variations, but the thought that I would
14 have is the obligation is still there on that carrier. Now,
15 maybe the carrier comes along and says, "You know what, I
16 don't want to do it." I would suggest that they still have
17 that as a line item on the bill, and literally waive the
18 charge. And when I say "waive the charge," is if somebody
19 says, "You know what, I don't want to do this, and for the
20 next six months or the next two years or the next 10 years
21 I'm going to waive it," they waive it.

22 However, they still have the obligation, if it was
23 3.1 percent, to collect the 3.1 percent and hand it to USAC.
24 They just elect to waive it.

25 And the reason I highlight that is you eliminate

1 the problem associated with each carrier having let's say a
2 different collectable rate, or last year's revenues are
3 different than this year's revenues.

4 And, in fact, if this individual is a customer of
5 mine and that individual left me and went to another
6 carrier, I no longer would have the obligation to pay the
7 3.1 percent. The other carrier would have the obligation.

8 So, yes, from my point of view, if you had the
9 assessment and the collection to be the same as defined by
10 the USAC, and that if a carrier didn't want to do it, and
11 wanted to use that as some vehicle to win a customer, they
12 can effectively waive it, but they still have to pay
13 theoretically that number to USAC.

14 CHAIRMAN KENNARD: Mr. Lubin, what would you do
15 about carriers that don't send out a monthly bill, that
16 don't have presubscribed customer or dial-around customers,
17 phone cards?

18 MR. LUBIN: You'll get a couple answers.

19 I mean, first of all, if it's a percentage of
20 revenue, my view is you do the same thing.

21 CHAIRMAN KENNARD: Um-hmm.

22 MR. LUBIN: Because if they don't send a bill,
23 they don't get revenue. So if it's a percent of revenue,
24 it's not an issue.

25 If it were a line charge, which is hypothetically

1 another way, then you have to ask the question who is the
2 assessor of the line charge.

3 CHAIRMAN KENNARD: Um-hmm.

4 MR. LUBIN: And we can have a discussion of that,
5 and if you want, I'll give you my answer right now, but to
6 me --

7 CHAIRMAN KENNARD: Go ahead.

8 MR. LUBIN: My answer of the line charge is the
9 local company for residents would have the line charge. And
10 so the dial-around issue is not an issue.

11 For 800 or whoever has the customer, if it's a
12 private line business, whatever, let's say I have the
13 relationship, then I put that per line charge on the bill,
14 and I collect it and I had it off to USAC.

15 I would also suggest to you that if it were this
16 way, and again I'm not trying to be arguing that per line is
17 the right approach, I'm just trying to lay out, hey, there
18 is two different ways of going about it. Each one has
19 different attributes, and you've got to figure out which
20 attributes you find most compelling in terms of public
21 policy.

22 But the other point I was going to make to you is
23 if the LEC were the collector on the -- on the residential
24 line or the local line, for that matter, you have the most
25 efficient collection mechanism; the lowest of collectable

1 rate, the least customer confusion because of all billing
2 information that goes back and forth to various vendors.

3 And by the way, I'm not saying this to try to put
4 the burden on the LEC because I expect -- I hope to be a LEC
5 as well, but I am looking for what is the most efficient
6 from my point of view rational way if you went down the per
7 line basis. The alternative is you don't go down the per
8 line basis.

9 CHAIRMAN KENNARD: Thank you.

10 MR. LUBIN: Yes.

11 CHAIRMAN KENNARD: Chairman Wood?

12 CHAIRMAN WOOD: Commissioner Gillis, welcome.

13 If you could do it over again, how would you do it
14 so that your customers would be -- I mean, specifically,
15 what would had not done that you all did do or what would
16 you do that you all forgot to do?

17 COMMISSIONER GILLIS: So I still have friends, you
18 mean?

19 CHAIRMAN WOOD: So they call you back.

20 COMMISSIONER GILLIS: Well, it's hard to say what
21 we would do over. It's probably easier to talk about what
22 we should be doing on a going forward basis.

23 But I think what we have not done well is make the
24 case to customer of why these competitive reforms are in
25 their interest as customers beyond just telling them, well,

1 it's the law. I mean, that's -- I've tried that. That's a
2 regulator's cop-out, and say -- hold up the Act and say,
3 "Well, I know, but it's the law."

4 Actually, I agree with the law. I think that the
5 '96 Act is right on target and what we should be doing. So
6 that is just probably a cop-out.

7 But I think the best we can do and what we need to
8 do more of is to present the case to consumers of why these
9 competitive reforms are needed. We also need to, and what
10 we could do better, I think, is be more sensitive in the way
11 we design our competitive reform, to make sure they are
12 consumer friendly; that we do -- just to pick on one -- do
13 our best to make sure that we can prevent customers from
14 being billed for services they didn't subscribe to, those
15 kind of things; make it easy for customers to make choices
16 as much as we can.

17 But there is always this tough balancing act.
18 That's my biggest problem in doing this as a regulator.
19 It's -- we can't always do everything that makes it easy for
20 consumers or protecting consumers exactly to the extent that
21 it provides a barrier to entry, and we always need to weigh
22 those things.

23 But it's a long waffley answer, Chairman Wood. I
24 don't really know, but I know that we aren't doing it well
25 enough at the moment.

1 COMMISSIONER SCHOENFELDER: May I?

2 CHAIRMAN KENNARD: Please.

3 COMMISSIONER SCHOENFELDER: I would like to follow
4 up with Commissioner Gillis just a little bit. He and I
5 worked together on a few interesting consumer issues, and
6 this is more of a comment, but I guess I would invite anyone
7 on the panel to comment on what I have to say.

8 He said something about we need to tell our
9 consumers the truth, and that is absolutely imperative that
10 we do that. I can't emphasize that enough. We have to be
11 believable. And one of the things that's frustrating to me
12 is I listen to Michael say that we need to do this, this and
13 this, and everything he said we do at my commission. I've
14 done it.

15 In addition to that, I've written a weekly news
16 column. I've done all kinds of interesting things. Now, we
17 have a saying in my state that you can lead a horse to
18 water, but you can't make him drink, and sometimes that's
19 where I'm at. Sometimes I think I become so frustrated in
20 trying to educate the consumer about what's happening in
21 this industry that I wonder what to do next. And we've
22 stolen things from Commissioner Johnson's commission. We've
23 stolen ideas of how to do things because she has a large
24 consumer education group and we don't.

25 CHAIRMAN JOHNSON: Do you want to give them back?

1 COMMISSIONER SCHOENFELDER: No.

2 (Laughter.)

3 We just take her idea. We have done all sorts of
4 things to educate our consumers. We have put on workshops.
5 We have done those things.

6 First of all, I have a couple observations that I
7 think might be driving this, and one of them is that we need
8 to -- government by its own nature, and we do great things
9 as government, and by the way, I'm an elected commissioner,
10 which means that my constituents call me up with slamming
11 complaints, and we do solve those on the state level before
12 anybody ever questions the jurisdiction. We just take care
13 of them.

14 MR. TRAVIESO: Good for you.

15 COMMISSIONER SCHOENFELDER: We did that and many
16 states do by the way. We just don't refer them to the
17 federal jurisdiction unless there is a major jurisdictional
18 problem and someone raises that issue.

19 But one of the things I think that is happening is
20 that we need quicker responses to the developments in the
21 marketplace. The amount -- a number of people who are
22 performing in the marketplace right now are more than what
23 there are regulators. So we need help from consumer groups.
24 We need help from anyone who will help us inform people.
25 But most of all, we need help from the citizens of this

1 country to better inform themselves.

2 And is that handing it back and saying, well, I'm
3 not accepting my responsibility? I don't think so. But I
4 think that we have to do some of that.

5 And then my other observation is competition is
6 just plain messy, and that's difficult, and this is an area
7 where consumers have never had to deal with competition
8 before, and so they are not used to it, so they take
9 additional education and additional understanding on our
10 part.

11 I think some companies can help. Rather than just
12 slam them, educate them a little bit if you'd like to keep
13 them as consumers.

14 But I'll shut up with that and ask someone to
15 respond to those terrible outlandish observations.

16 MR. TRAVIESO: Well, at the risk of responding in
17 kind, I would actually agree with almost everything you've
18 said. I don't think anyone can advocate that we have to --
19 once we've done everything we can to provide the information
20 to the consumers, that we then have to sort of follow them a
21 round somehow and make sure that they use that information,
22 and I don't think anyone is advocating that.

23 But I think they are advocating, certainly I'm
24 advocating that it's extremely important to use every
25 resource available to provide the information to the

1 consumer, and then it's up to the consumer, presumably
2 reasonably well informed consumer, to make whatever choice
3 that consumer wants. And if the consumer chooses to remain
4 with X company, their incumbent local carrier, and pay more
5 than they might pay by switching to a competitor, that's
6 their choice, and I don't have any problem with that.

7 But I'd like to respond to one other point, and
8 that is that the concept that commissions should go tell
9 consumers that competition -- that the reforms that are
10 occurring are good and are going to save them money, or are
11 going to benefit them while at the same time -- we've had
12 some panelists say things like we're going to have to
13 rebalance the rates, there are implicit subsidies in
14 residential rates, we can't have average rates anymore, we
15 have to send price signals, rates are going to go up.

16 How do you propose to go tell consumers in your
17 areas that competition is good for them and they're going to
18 benefit from it and at the same time allow the market, which
19 is what, you know, the market will do, to charge more for
20 services than are already charged in places where it costs
21 more to provide those services, and where we haven't built
22 in maybe a necessary Universal Service, portable Universal
23 Service Fund that will make up the difference?

24 So I would have -- I would be reluctant to
25 encourage commissioners to actually proslatize. I think

1 what commissioners ought to do is to explain that we're
2 moving from a regulated system to a competitive system and
3 there are risks and benefits, and here they are, and here is
4 a way for you all to evaluate your choices.

5 COMMISSIONER SCHOENFELDER: Can you simplify that
6 enough so that the average American who does not want to
7 understand this network completely can understand it?

8 MR. TRAVIESO: I think you can. You can use an
9 analogy to a gasoline station. You know, we don't regulate
10 what gasoline stations charge, and there is competition, and
11 you can drive three block and pay \$1.20 a gallon or you can
12 go -- ride around for a long time and find a station that
13 pays \$1.09. And customers would understand that if there
14 was one gas station and one rate, that's what they would
15 pay. And if there wasn't, and there was competition, they
16 might pay more or less, depending on where they go.

17 And you have a lot of -- I mean, there are many
18 services, all services basically, except for what's left
19 over now is the regulated service, are competitive service.
20 People just have to understand that they're not guaranteed
21 any longer a rate. They're going to pay a market rate and
22 it may be more or less. That's what I don't think customers
23 are hearing. They are hearing from all -- from both the
24 incumbents and the competitors that competition is great and
25 they are all going to save money, and I Just don't think

1 that's the truth, to speak in Commissioner Wood's terms. I
2 don't think that is the truth.

3 COMMISSIONER TRISTANI: Can i interject to the
4 last --

5 CHAIRMAN KENNARD: Sure. Sure.

6 COMMISSIONER TRISTANI: Can you hear me? And I've
7 got to make a statement because I think we're talking about
8 two kinds of consumer education. We're talking about
9 consumer education about the changing landscape, but we're
10 also talking about consumer education, about consumer
11 protection. And I think it's really important to
12 distinguish that.

13 I also think it's important to distinguish that
14 state commissions have varying resources, and we know that
15 well, and that there may be some state commissions out there
16 that do no consumer education whatsoever. And I can tell
17 you because I was on the New Mexico State Corporation
18 Commission about a year ago, that we were one of those
19 commissions. We had no resources, so we were not doing
20 that. I hope that the commission can do that now, but we
21 were not.

22 So many states are much further along than others.
23 Many states have good consumer advocates, people's council.
24 Many states do not have those resources or they are very
25 limited. In our state, the attorney general handle those

1 kind of issues, and at that time they chose to devote their
2 resources to the electric utilities, hardly anything to do
3 with telephones.

4 Getting back to the two kinds of consumer
5 education, I think it's extremely difficult, and you used
6 the gasoline analogy, but I think it's very difficult to
7 explain the changing landscape. I have trouble
8 understanding it, so it's hard to explain.

9 But I think it's easier to explain consumer
10 protections and the things you can do and ought to be able
11 to do when you're slammed, when you're crammed, when
12 deceptive practices are used, and I think we need to
13 distinguish between the both, and I know you can't make the
14 horse drink the water, but I think it's the obligation to --
15 almost if you have to give it to them with your hand, you
16 have to do that.

17 And there are also different kinds of consumers,
18 and the elderly are more prone to be the prey of the
19 deceptive practices, and, you know, it's hard, and so we
20 can't just say it's all one group of consumers and one kind
21 of problem.

22 And what I do want to ask after all of that long
23 introduction is several of you talked about how well or how
24 good it is to work together, the state commissions or the
25 state council with FCC and et cetera, et cetera, and I know

1 we're doing a lot of good efforts there. But I know there
2 is not a formal process.

3 And my question would be to any of you, what would
4 be the best way to get a formal process going where we make
5 sure that we're telling each other about the particular bad
6 players, we make sure we're giving the same information to
7 consumers? Could anyone address that question? How should
8 we start?

9 COMMISSIONER GILLIS: I can take a start at that.
10 Specifically, we're having a NARUC meeting in Orlando next
11 week.

12 COMMISSIONER TRISTANI: Oh, okay.

13 COMMISSIONER GILLIS: And Commissioner
14 Schoenfelder is organizing a panel with part of the
15 Communications Committee just on this topic.

16 I can speak personally that I would be -- I will
17 bring that request back to the Ad Hoc Consumer Affairs
18 Committee, which I think is the key entity that should be
19 involved with that, and I think that from NARUC's
20 perspective it's a reasonable request, and it's more a
21 matter of having the right contact within the FCC that you
22 can tell us who that is that we can work with, and we'll
23 plug in, and use some processes that really are pretty far
24 along within the work of the Consumer Affairs Committee at
25 this point.

1 So I think we just need to make it into a project
2 is my opinion, and we need a person, we can identify some
3 people with NARUC and just do it.

4 MS. ATTWOOD: Well, I guess I am that person.

5 I wanted to say that there also are actually --
6 well, there are informal, they are more routinized mechanism
7 that at least we've been talking to states. There is the
8 National Association of Attorney General, the NAAG group,
9 and they have conference calls. We're usually on them at
10 least every month where we talk about these issues,
11 potential problem areas, and we are making a concerted
12 effort in our division through the FCC to actually have
13 specific state contacts for each person that we have a
14 routine that we can call and talk about what we're doing and
15 what they're doing.

16 COMMISSIONER TRISTANI: I guess I'm going further
17 than that, thinking there ought to be a plan where let's say
18 we're going to do so many forums across the country. I'm
19 thinking out loud here but together.

20 MS. ATTWOOD: Yes, I agree.

21 MS. HOGERTY: Can I make an observation?

22 With all due respects to everybody in this room,
23 it seems that there for some time has been a lot of talk
24 about this, and very little is being done. I think the
25 notion of the federal and the state regulator, or all

1 entities cooperating in this effort makes sense. But I
2 think Michael made a very good point that in most
3 commissions, and there may be some exceptions, they have
4 maybe a consumer protection division who is treated as a
5 stepchild, who simply does nothing but answer calls. That
6 isn't doing the job.

7 Consumers need to be educated so they can make
8 intelligent choices. It has to be explained to them what
9 the market is turning into, and the fact that, as Michael
10 pointed out, the people still don't -- many don't know the
11 difference between a toll call and a local call suggests a
12 huge amount of confusion among consumers. They have to know
13 where to complain. There has to be some kind of remedy for
14 things like slamming. I mean, they can complain. The
15 regulators can go and give penalties. That does absolutely
16 nothing for the consumer who has been put through this
17 treatment, they've have been slammed. They don't get their
18 money back. You can file all the penalty actions you want
19 to. It's a very small sanction as far as stopping these
20 companies from taking advantage of consumers. And as long
21 as consumers know that this is going to happen, that may be
22 one reason why they do not go out and use the competitive
23 market, because they do not want to take a chance of dealing
24 with some kind of a fly by night, or someone who is going to
25 take advantage of them.

1 I see some very good discussion going. I don't
2 see anything happening. That is just my observation.

3 CHAIRMAN KENNARD: Mr. Lubin, I noted recently
4 AT&T inaugurated a new rate plan for its basic schedule
5 customers and it increased the monthly rate to \$3.00 per
6 month for some classes of consumers.

7 I'm curious about what your company did to educate
8 consumers about why you were doing that, what they were
9 being asked to pay for, what has been the reaction from
10 these consumers, what has been the churn rate among these
11 classes of consumers. If you can just give us some sense of
12 the reaction to that, I think it would be helpful to us.

13 MR. LUBIN: First of all, as you're probably
14 aware, the minimum monthly \$3.00, as I understand it, was
15 for new customers, not for let's say all of the existing
16 customers.

17 Unfortunately, I am not that knowledgeable in
18 terms of answering all the questions you have tee'd up, and
19 I'll be glad to seek answers to your questions.

20 But at least the feedback that I've been getting
21 is not a lot of calls coming in, but I should probably stop
22 because I'm just not that intimately familiar with the
23 answers to the questions your posing.

24 CHAIRMAN KENNARD: I would be interested in
25 learning more about that.

1 MR. LUBIN: Okay.

2 COMMISSIONER NESS: Mr. Lubin, your basic proposal
3 about requiring mandating that there be charges on a bill at
4 a specific percentage, the Communications Act requires that
5 every telecommunications carrier that provides intrastate --
6 telecommunications services, intrastate telecommunications
7 services shall contribute on an equitable and
8 nondiscriminatory basis.

9 In your view, do the local exchange carriers
10 provide intrastate services?

11 MR. LUBIN: Yes.

12 COMMISSIONER NESS: How would they be addressing
13 the requirement that they pay into the Universal Service
14 Fund?

15 MR. LUBIN: Assuming the assessment factor were
16 percentage, whatever that percentage is --

17 COMMISSIONER NESS: Their customer, as I recall,
18 would be -- would be the interstate carrier, they're
19 providing access to the interstate carrier.

20 MR. LUBIN: Right, but they also provide an
21 interstate SLIC to the end user. So my understanding, if
22 the assessment on interstate revenues, let's just say it was
23 3.14 percent or something like that, their obligation is
24 3.14 percent on interstate retail revenues, which would
25 include the interstate subscriber line charge. They also

1 have private line or special access lines that are bought by
2 the end user.

3 And so they are assessed on the interstate retail
4 revenue which, from my point of view, unfortunately, then
5 comes back, roughly 93 percent of it, comes back in the form
6 of access. plus the schools/libraries which is assessed on
7 inter and intra, the same thing occurs there as well.

8 COMMISSIONER NESS: So, again, again are they then
9 taking those revenues and assessing an end user charge on a
10 consumer or are they assessing a charge on the interstate
11 carrier?

12 MR. LUBIN: Under what I would --

13 COMMISSIONER NESS: Under your plan.

14 MR. LUBIN: What I was suggesting is whatever the
15 assessment rate is, and the example if it was 3.1 or 3
16 percent on interstate revenue, it would apply 3.1 percent on
17 interstate retail revenues. What is that? That would be
18 the interstate SLIC. That would be all of the retail,
19 private line or special access lines they sell directly to
20 the end user. It would exclude access as it currently does.

21 COMMISSIONER NESS: Thank you.

22 MR. LUBIN: You're welcome.

23 CHAIRMAN KENNARD: Commissioner Baker.

24 COMMISSIONER BAKER: Thank you. To the panel,
25 would anyone care to address the notion of how would we, how

1 will we optimize as opposed to merely maximize the level of
2 information that consumers get?

3 And what I'm getting at is you take a bottle of
4 cold medicine say, and inside that packet there is a little
5 leaflet printed on tissue paper in about two point type,
6 with about 10 pages of medicalese, legalese. There is a
7 pretty good argument to be made that that is too much
8 information to be useful to most consumers.

9 At the other extreme, getting back to telecom, a
10 one-line bill with one charge for "phone service" would
11 obviously be insufficient.

12 How do we optimize the level of information?

13 I heard some of the panelists mention plain
14 English as being one means, but can we expound on that a
15 little bit?

16 MR. GILLES: I would like to respond to your
17 question because, you know, phone service and the rates that
18 we pay are not that dissimilar to credit, are not that
19 dissimilar to rates involved in leasing vehicles, or
20 something like that. So there are places in the other
21 markets that can be looked at as to how regulatory agencies
22 have approached problems, particularly if you look in the
23 area of consumer credit with truth in lending coming out.

24 Before truth in lending you had all sorts of terms
25 out there for what you were going to pay on time for

1 merchandise, \$20.00 a week forever or something like that.
2 People didn't disclose back-end charges in transaction.
3 There were all sorts of extra things after you got the
4 merchandise that you had to pay. And what we had with truth
5 in lending was by definition you identified what the selling
6 price is going to be, what the finance charge was, how many
7 payments and so forth.

8 Now, if you study the history of truth in lending
9 over time, it -- the amount of disclosures has changed
10 because at first you had limited disclosure and people
11 thought more was better. Then we came to the point that it
12 was information overload, and we tapered back truth in
13 lending, so there has been a process at work though in that
14 area in terms of how do you define a rate so that people can
15 compare what the price of the service, what the price of
16 credit is; that it would be worthwhile for the Commission to
17 investigate, particularly in terms of the truth in billing
18 requirement.

19 So, now, the more practical aspect of your
20 question relates to, well, how is this going to work. I
21 mean, we can each in the state's attorney general, we've
22 discussed at length how can we -- how can we -- we think
23 some of these ads about long distance rates are deceptive,
24 how can we approach this problem, how can we make sure that
25 people are able to take this information and compare it.

1 Recently, the Federal Reserve Board revised truth
2 in leasing, and they went through a very long rule-making
3 process. The Federal Reserve Board relied on its own
4 initiative, it wasn't structured by industry, but it had
5 input of everyone involved in that process, relied on
6 standard techniques in terms of focus groups, in terms of
7 surveying people as to what their take-away was, if you
8 will, from a particular disclosure and to see if it was
9 useful information or not.

10 So they brought the principles that are out there
11 in industry and marketing, and how do you make information
12 and how do you make certain that this information is going
13 to be useful and helpful to bear on that process.

14 Now, those are two items, I think, that could be
15 considered in trying to identify what has to be disclosed in
16 terms of the rate.

17 MR. TRAVIESO: I have a quick response to that
18 also, another source of information that can be helpful.

19 There are probably eight or nine states that have
20 already gone through an education process, a consumer
21 education process in the electric restructuring that is
22 going on in a number of states. And they have actually --
23 all of those states have issued RFPs to hire consultants to
24 help them figure out how to explain, you know, to Joe Six-
25 Pack, how to pick an electric company. And they have more

1 or less success, but there is a body of information which
2 exists already because of that process which resides,
3 typically resides at a state commission or may reside with
4 consultants who have written articles about it to assist
5 other commissions like mine, which is in the round table
6 process right now trying to figure out how to do this on the
7 electric side, which is a whole another problem.

8 But there is a body of information and they
9 actually have focus group information. They have done some
10 of the things that have been talked about, trying to
11 evaluate the success or failure of particular kinds of
12 approaches, and there are many different approaches that
13 have been used, and many different kinds of ad that you see
14 if you happen to be in one of those states.

15 So that's another place to go and try to see if
16 you can learn something from that process.

17 MS. FARQUHAR: I also have a comment from the new
18 technology or wireless perspective, that they also have a
19 huge consumer education hurdle to overcome, to convince
20 consumers, once they get over the regulatory hurdle, to
21 adopt a new technology.

22 In fact, some of you may have seen the Teligent
23 truck that's driving in front of the FCC and downtown D.C.
24 and around downtown today, trying to get people to switch to
25 this new fixed, broad-band wireless service here in

1 Washington, and as they are expecting to have to do a huge
2 consumer education, and we'll actually need state regulatory
3 help to highlight the benefits of some of these new
4 technologies.

5 CHAIRMAN KENNARD: Thank you. I think we need to
6 wrap up. I'm going to at this time invite the commissioners
7 to offer any closing comments if they have any statements?

8 Okay, hearing none, I will thank our panelists for
9 a very enlightening afternoon, and also I'd like to thank
10 some people who made this possible today, the organizers of
11 this event: Lori Wright, Matthew Vitalie, Sheryl Todd,
12 Astrid Carlson and Tom Power.

13 Thank you all very much for participating.

14 (Applause.)

15 (Whereupon, at 5:06 p.m., the meeting was
16 concluded.)

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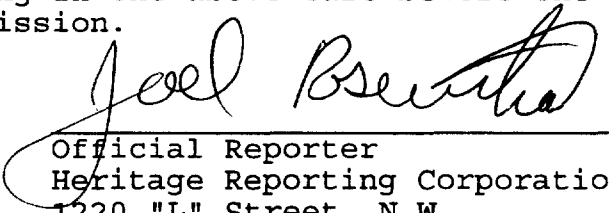
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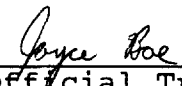
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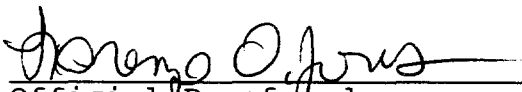
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